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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,486	06/15/2001	Jay H. Connelly	042390P11861	8023

7590 01/19/2007  
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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/882,486

Applicant(s)

CONNELLY, JAY H.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 10/30/2006 have been fully considered but they are not persuasive.

Applicant argues that according to claim 10, as noted at page 25, lines 6-20 of the specification, clients may consume content at different rates, such that some clients may consume more content than other clients in a given amount of time. The examiner notes that these limitations are not found in the claim limitations, therefore, these arguments are moot.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., different rates of content consumption) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further, in regards to new claims 87-88, the specification at page 25, lines 6-20 states that "the clients are assumed to consume content at different rates" and "As a result, some clients will have consumed more content than other clients in a given amount of time". Again, Alexander clearly teaches at Column 28, Lines 11-28 for the invention of Alexander creating different viewer profiles for multiple viewers and that each viewer profile contains a viewer's favorite types of programs. Alexander further teaches at Column 30, Lines 38-44 that the Profile Program analyzes an individual's

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Viewer Profile as compared to the Viewer Profile of others so that the Profile Program can determine the likelihood that the subject viewer will prefer or be interested in a particular subject, product, theme, movie, etc. based on the comparison to similar Viewer Profiles. Therefore, since multiple similar viewer profiles are being gathered and compared, clearly not every person watches the same number of shows at exactly the same time and if this were the case, there would be no need for a comparative analysis program and the television headend could simply send the same program listings (with favorites) to each client device, because each viewer (having the exact same profile) would have no need for an EPG with varied programs and advertisements. Therefore, Alexander clearly teaches that a client utilizes the predetermined amount of pieces of content at a different rate than a different client and that for a given amount of time, the client consumes more content than the other client. Applicant's own specification clearly states the limitation of claim 88 are a direct (inherent) result of the clients utilizing the content at different rates.

The examiner notes that if Applicant believes that Alexander teaches that clients utilize predetermined amount of pieces of content at a same rate as a different client, the examiner invites Applicant to provide a passage in Alexander that teaches a system which would analyze identical profiles, thereby providing a system that would not provide a customized EPG to the user, which is the purpose of the invention of Alexander.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 10, 12-13, 32, 34-35, 77 and 79 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 10, Alexander discloses receiving, at a client, content descriptors, which describe pieces of content available for future broadcast from a server (see Column 8, Lines 18-35 for downloading EPG information that provides television program information which describes various types of television programs and also note Column 4, Lines 54-56 for the EPG providing television program listings at future times).

Alexander also discloses generating demand data at the client (see Column 28, Lines 30-52 for recording every action a user makes when interacting with an EPG) indicating the relative desirability of the pieces of content described by the content descriptors (the examiner notes that when recording the user interactions (see again Column 28, Lines 30-52) channel changes, time of the channel change and the identification of what programming was displayed after channel change all represent that the demand data (viewer profile information collected) indicates the relative

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desirability of the pieces of content (television programs) described by the content descriptors (EPG information)).

Alexander also discloses sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent (see Column 29, Lines 14-21 for sending the viewer profile information to the headend (server) of the television system and Column 29, Lines 24-27 for collecting data during predetermined time intervals since a previous analysis, therefore sending demand data feedback after a predetermined amount of pieces of content (content utilized during a predetermined time interval) after a previous time interval (last time demand data feedback was sent)) and the demand data related to the utilized pieces of content has been generated (see Column 29, Lines 40-41 for teaching that the profile data sent from the client to server contains interactions with the EPG (such as tuning to and displaying (generating) television programs on multiple channels)), the demand data feedback to indicate the relative desirability of the pieces of content available for future broadcast (again note that the viewer profile contains information representing user interactions (see again Column 28, Lines 30-52) such as channel changes, time of the channel change and the identification of what programming was displayed after channel change, which all represent that the demand data feedback (viewer profile information collected and transmitted back to the headend) indicates the relative desirability of the pieces of content (television programs) described by the content descriptors (EPG information)).

Claim 12 corresponds to claim 10, where Alexander teaches that the generation of demand data related to the pieces of content described by the content descriptors (see the rejection of claim 10) comprises receiving explicit user input regarding specific pieces of content (see Column 28, Lines 30-52 for the user changing a channel or any interaction with the EPG, which all represent an explicit user input regarding the specific pieces of content).

Claim 13 corresponds to claim 10, where Alexander teaches that the sending of the demand data feedback to the server comprises sending demand data to the server after demand data related to a first predetermined number of pieces of content have been generated (see the rejection of claim 10 for Alexander teaching sending demand data feedback to the server after the demand data related to a predetermined amount of pieces of content being generated by collecting the viewer profile information continuously during predetermined time periods and note that since a time period is predetermined by the user, then clearly a predetermined number of pieces of content are generated and then reported to the server/headend within the time period).

Referring to claims 32 and 34-35, see the rejection of claims 10 and 12-13, respectively. Further note that Alexander teaches that the system is implemented on a machine-readable medium having instructions stored thereon and are executed by a client (see Column 5, Lines 21-53).

Referring to claims 77 and 79, see the rejection of claims 10 and 12, respectively.

Referring to claim 86, see the rejection of claim 10.

Referring to claims 87-88, the specification at page 25, lines 6-20 states that "the clients are assumed to consume content at different rates" and "As a result, some clients will have consumed more content than other clients in a given amount of time". Again, Alexander clearly teaches at Column 28, Lines 11-28 for the invention of Alexander creating different viewer profiles for multiple viewers and that each viewer profile contains a viewer's favorite types of programs. Alexander further teaches at Column 30, Lines 38-44 that the Profile Program analyzes an individual's Viewer Profile as compared to the Viewer Profile of others so that the Profile Program can determine the likelihood that the subject viewer will prefer or be interested in a particular subject, product, theme, movie, etc. based on the comparison to similar Viewer Profiles. Therefore, since multiple similar viewer profiles are being gathered and compared, clearly not every person watches the same number of shows at exactly the same time and if this were the case, there would be no need for a comparative analysis program and the television headend could simply send the same program listings (with favorites) to each client device, because each viewer (having the exact same profile) would have no need for an EPG with varied programs and advertisements. Therefore, Alexander clearly teaches that a client utilizes the predetermined amount of pieces of content at a different rate than a different client and that for a given amount of time, the client



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consumes more content than the other client. Applicant's own specification clearly states the limitation of claim 88 are a direct (inherent) result of the clients utilizing the content at different rates.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 33, 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Proehl et al. (U.S. Patent No. 6,990,676).

Referring to claim 11, Alexander discloses that the generation of the demand data comprises consuming previews of the pieces of content (see Column 20, Lines 13-25 for instructing the EPG to display a video clip (preview) about a future-scheduled television program), the generation of demand data responsive to the previews of the pieces of content that are consumed (see again Column 28, Lines 30-52 for recording interactions with the EPG and specifically note Column 28, Lines 44-52 for recording every instruction to record or watch a program and also the EPG recording what is displayed in every window of the EPG user interface before and after a channel change).

Alexander is silent as to the previews being locally stored at the client.

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Proehl discloses that previews for future television programs can be locally stored at the client (see Column 14, Line 67 through Column 15, Line 17 and Column 17, Lines 15-25).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the previews, as taught by Alexander, using the functionality of storing the previews locally at the client, as taught by Proehl, for the purpose of avoiding any delay caused by downloading a preview from a server/headend if the user selects additional information for a television program that will be broadcast in the future, thereby allowing a viewer to instantaneously view a preview upon selection by the viewer.

Referring to claim 33, see the rejection of claim 11.

Referring to claim 78, see the rejection of claim 11.

5. Claims 14-15, 36-37, 53, 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Herz et al. (U.S. Patent No. 5,758,257).

Referring to claim 14, Alexander discloses all of the limitations in claim 10, as well as selecting programs to be included in the viewer profile information sent to the server/headend, but fails to teach ranking the pieces of content.

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Herz discloses a viewer profile collection system (see Figure 1), where the user can rank pieces of content (see Column 13, Line 55 through Column 14, Line 34 for ranking a piece of content (with a value of 8) from the movie First Blood, which represents an action section).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify viewer profile collection process, as taught by Alexander, using the functionality of ranking the pieces of content, as taught by Herz, for the purpose of determining which data sources of those available will have the most appeal to his or her customers (see Column 9, Lines 49-51 of Herz).

Referring to claim 15, see the rejection of claim 14 and further note that ranking a piece of content by assigning a number also constitutes assign a piece of content a rating.

Referring to claims 36-37, see the rejection of claims 14-15, respectively.

Referring to claim 53, Alexander discloses a processor having circuitry to execute instructions (see Column 5, Lines 21-24).

Alexander also discloses a communications interface coupled to the processor, the communications interface coupled to receive communications from a server (see Column 5, Lines 46-53 for a display processor that displays the EPG data received from

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the server (see Column 8, Lines 18-35)). Again note Column 5, Lines 21-24 for the processor controlling (accessing the control functions) the entire system.

Alexander also discloses a storage device coupled to the processor, having executable instructions stored therein (see Column 5, Lines 24-25 for a RAM and ROM).

Alexander also discloses receiving, at a client, content descriptors, which describe pieces of content available for future broadcast from a server (see Column 8, Lines 18-35 for downloading EPG information that provides television program information which describes various types of television programs and also note Column 4, Lines 54-56 for the EPG providing television program listings at future times).

Alexander also discloses generating demand data at the client (see Column 28, Lines 30-52 for recording every action a user makes when interacting with an EPG) indicating the relative desirability of the pieces of content described by the content descriptors (the examiner notes that when recording the user interactions (see again Column 28, Lines 30-52) channel changes, time of the channel change and the identification of what programming was displayed after channel change all represent that the demand data (viewer profile information collected) indicates the relative desirability of the pieces of content (television programs) described by the content descriptors (EPG information)).

Alexander also discloses sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since the last time demand data feedback was sent (see Column 29, Lines 14-21 for sending the

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viewer profile information to the headend (server) of the television system and Column 29, Lines 24-27 for collecting data during predetermined time intervals since a previous analysis, therefore sending demand data feedback after a predetermined amount of pieces of content (content utilized during a predetermined time interval) after a previous time interval (last time demand data feedback was sent)) and the demand data related to the utilized pieces of content has been generated (see Column 29, Lines 40-41 for teaching that the profile data sent from the client to server contains interactions with the EPG (such as tuning to and displaying (generating) television programs on multiple channels)), the demand data feedback to indicate the relative desirability of the pieces of content available for future broadcast (again note that the viewer profile contains information representing user interactions (see again Column 28, Lines 30-52) such as channel changes, time of the channel change and the identification of what programming was displayed after channel change, which all represent that the demand data feedback (viewer profile information collected and transmitted back to the headend) indicates the relative desirability of the pieces of content (television programs) described by the content descriptors (EPG information)).

Alexander is silent for teaching a ranking of the pieces of content.

Herz discloses a viewer profile collection system (see Figure 1), where the user can rank pieces of content (see Column 13, Line 55 through Column 14, Line 34 for ranking a piece of content (with a value of 8) from the movie First Blood, which represents an action section).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify viewer profile collection process, as taught by Alexander, using the functionality of ranking the pieces of content, as taught by Herz, for the purpose of determining which data sources of those available will have the most appeal to his or her customers (see Column 9, Lines 49-51 of Herz).

Claim 55 corresponds to claim 53, where Alexander teaches that the generation of demand data related to the pieces of content described by the content descriptors (see the rejection of claim 10) comprises receiving explicit user input regarding specific pieces of content (see Column 28, Lines 30-52 for the user changing a channel or any interaction with the EPG, which all represent an explicit user input regarding the specific pieces of content).

Claim 56 corresponds to claim 53, where Alexander teaches that the sending of the demand data feedback to the server comprises sending demand data to the server after demand data related to a first predetermined number of pieces of content have been generated (see the rejection of claim 10 for Alexander teaching sending demand data feedback to the server after the demand data related to a predetermined amount of pieces of content being generated by collecting the viewer profile information continuously during predetermined time periods and note that since a time period is predetermined by the user, then clearly a predetermined number of pieces of content are generated and then reported to the server/headend within the time period).

6. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (U.S. Patent No. 6,177,931) in view of Herz et al. (U.S. Patent No. 5,758,257) in further view of Proehl et al. (U.S. Patent No. 6,990,676).

Referring to claim 54, Alexander and Herz disclose all of the limitations of claim 53, as well as Alexander teaching that the generation of the demand data comprises consuming previews (a portion of the pieces of content) of the pieces of content (see Column 20, Lines 13-25 for instructing the EPG to display a video clip (preview) about a future-scheduled television program), the generation of demand data responsive to the previews of the pieces of content that are consumed (see again Column 28, Lines 30-52 for recording interactions with the EPG and specifically note Column 28, Lines 44-52 for recording every instruction to record or watch a program and also the EPG recording what is displayed in every window of the EPG user interface before and after a channel change).

Alexander is silent as to the previews (portion of the pieces of content) being locally stored at the client.

Proehl discloses that previews for future television programs can be locally stored at the client (see Column 14, Line 67 through Column 15, Line 17 and Column 17, Lines 15-25).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the previews, as taught by Alexander and Herz, using the functionality of storing the previews locally at the client, as taught by Proehl, for the

purpose of avoiding any delay caused by downloading a preview from a server/headend if the user selects additional information for a television program that will be broadcast in the future, thereby allowing a viewer to instantaneously view a preview upon selection by the viewer.

### ***Conclusion***

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**8.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



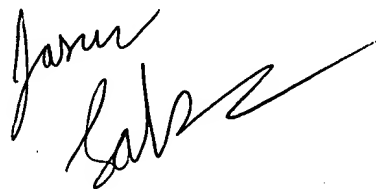
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

January 16, 2007

**JASON SALCE**  
**PRIMARY PATENT EXAMINER**

A handwritten signature in black ink, appearing to read "Jason Salce", with a long horizontal flourish extending to the right.